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HOUSE BILL 186

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Daniel P. Silva

AN ACT

RELATING TO EDUCATION; ENACTING THE DEAF AND HARD-OF-HEARING
CHILDREN'S EDUCATIONAL BILL OF RIGHTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Deaf and Hard-of-Hearing Children's Educational Bill of
Rights".

Section 2. FINDINGS AND PURPOSE. --

A. The legislature finds that:

(1) hearing loss affects the most basic human
need, communication. Without quality communication a child is
isolated from other human beings and from the exchange of
knowledge essential for educational growth and, therefore,
cannot develop the skills required to become a productive,
capable adult and a fully participatory member of society;

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1 (2) children with hearing loss have the same
2 innate capabilities as any other children. They communicate in
3 a wide variety of manual and spoken modes, languages and
4 systems. Some use aural/oral modes of communication, while
5 others use a combination of aural/oral and manual
6 communication. Many use American sign language, which is a
7 formal language, as well as the preferred everyday language of
8 the deaf community. Obviously, all children need to develop
9 English proficiency; and

10 (3) it is, therefore, critical that:

11 (a) deaf and hard-of-hearing children,
12 like all children, have quality, ongoing and fluid
13 communication, both in and out of the classroom;

14 (b) deaf and hard-of-hearing children be
15 placed in the least restrictive educational environment and
16 receive services based on their unique communication, language
17 and educational needs, consistent with 20 U.S.C.

18 §1414(d)(3)(B)(iv) of the federal Individuals with Disabilities
19 Education Act;

20 (c) deaf and hard-of-hearing children be
21 given an education in which teachers, psychologists, speech
22 therapists, assessors, administrators and other personnel
23 understand the unique nature of deafness, are specifically
24 trained to work with hard-of-hearing and deaf pupils and can
25 communicate spontaneously and fluidly with these children;

1 (d) deaf and hard-of-hearing children,
2 like all children, have the benefit of an education in which
3 there are a sufficient number of age-appropriate peers and
4 adults with whom they can interact and communicate in a
5 spontaneous and fluid way;

6 (e) deaf and hard-of-hearing children
7 receive an education in which they are exposed to deaf and
8 hard-of-hearing role models;

9 (f) deaf and hard-of-hearing children,
10 like all children, have direct and appropriate access to all
11 components of the educational process, including recess, lunch
12 and extracurricular, social and athletic activities;

13 (g) deaf and hard-of-hearing children,
14 like all children, be provided with programs in which
15 transition planning, as required under the federal Individuals
16 with Disabilities Education Act, focuses on their unique
17 vocational needs; and

18 (h) families of children who are deaf or
19 hard-of-hearing receive accurate, balanced and complete
20 information regarding their child's educational and
21 communication needs and the available programmatic, placement
22 and resource options, as well as access to support services and
23 advocacy resources from public and private agencies,
24 departments and all other institutions and resources
25 knowledgeable about hearing loss and the needs of children who

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1 are deaf or hard-of-hearing.

2 B. Given the central importance of communication to
3 all human beings, the purpose of the Deaf and Hard-of-Hearing
4 Children's Educational Bill of Rights is to encourage the
5 development of a communication-driven and language-driven
6 educational delivery system in New Mexico for children who are
7 deaf or hard-of-hearing.

8 Section 3. DEFINITION.--All references in the Deaf and
9 Hard-of-Hearing Children's Educational Bill of Rights to the
10 education of children who are deaf or hard-of-hearing include
11 early intervention, early childhood and kindergarten through
12 twelfth grade programs.

13 Section 4. EDUCATIONAL RIGHTS OF DEAF AND HARD-OF-HEARING
14 CHILDREN--ADDITIONAL DUTY OF PUBLIC EDUCATION DEPARTMENT.--

15 A. The state of New Mexico recognizes the unique
16 communication needs of children who are deaf or hard-of-hearing
17 and encourages the development of specific recommendations by
18 all state agencies, institutions and political subdivisions
19 concerned with the education of students who are deaf or hard-
20 of-hearing, including the public education department, the New
21 Mexico school for the deaf and the department of health, to
22 ensure that:

23 (1) these children have what every other child
24 takes for granted, including an educational environment in
25 which their language and communication needs are fully

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1 addressed and developed and in which they have early, ongoing
2 and quality access to planned and incidental communication
3 opportunities; and

4 (2) the recommendations, consistent with the
5 findings and purpose of the Deaf and Hard-of-Hearing Children's
6 Educational Bill of Rights, be completed expeditiously.

7 B. Since 20 U.S.C. §1414(d)(3)(B)(iv) of the
8 federal Individuals with Disabilities Education Act requires
9 that the individual education plan team consider the unique
10 communication needs of children who are deaf or
11 hard-of-hearing, the public education department shall develop
12 a model "communication consideration for students who are deaf
13 or hard-of-hearing", to become part of the individual education
14 plan process. The model shall be disseminated to all local
15 school districts, with training to be provided as determined by
16 the department.